

**EXHIBIT 5**

UNITED STATES

v.

DAVID MATTHEW HICKS

APPENDIX A  
TO OFFER FOR A  
PRETRIAL AGREEMENT

Date: 26 March 2007

1. As consideration for the offer of David Matthew Hicks (the "Accused") to plead guilty and his agreement to other terms and conditions as set forth in the Offer for A Pretrial Agreement, dated March 26, 2007, the Convening Authority will undertake as follows:
  - a. The maximum period of confinement that may be adjudged and approved is seven years. The Convening Authority agrees to suspend any portion of a sentence to confinement in excess of nine months.
  - b. The Convening Authority agrees to dismiss Specification 2 of the Charge with prejudice, at or before the time of sentencing.
  - c. The Military Judge will, in accordance with R.M.C. 1005(e) (5), instruct the commission members that the limits on their discretion, as pertains to a sentence to confinement, is as specified in a. above.
  - d. The Government of the United States will transfer custody and control of the Accused to the Government of Australia by not later than sixty (60) days from the date upon which the sentence is announced.
  - e. Upon signing of this agreement, the prosecution agrees not to present evidence in aggravation during the sentencing hearing and the defense agrees not to present evidence in mitigation. The accused may make an unsworn statement.
2. There are no limitations on the sentence other than that provided in paragraph 1, above.
3. This is original Appendix A submitted with the Offer for A Pretrial Agreement.

**REDACTED**

DAVID MATTHEW HICKS

Date

26/3/07

We certify that we gave David Matthew Hicks the advice referred to above and explained to him the meaning and effect of the foregoing, and he has voluntarily signed this Appendix A.

**REDACTED**

MICHAEL D. MORI, Major, USMC  
Detached Military Defense Counsel

26 MAR 07  
Date

**REDACTED**

JOSHUA L. DRATEL  
Civilian Defense Counsel

26 Mar 07  
Date

I recommend (acceptance) (~~rejection~~) of this Appendix A.

**REDACTED**

MORRIS D. DAVIS, Colonel, USAF  
Chief Prosecutor

26 MAR 07  
Date

I recommend (acceptance) (~~rejection~~) of this Appendix A.

**REDACTED**

THOMAS L. NEMINGWAY, Brig. Gen., USAF  
Legal Advisor to the Convening Authority

26 March 2007  
Date

The foregoing Appendix A is (approved) (~~disapproved~~) in conjunction with the pretrial agreement dated March 26, 2007.

**REDACTED**

SUSAN J. CRAWFORD  
Convening Authority

26 March 2007  
Date